Finance (No. 2) Act 2023

2023 CHAPTER 30

PART 3

MULTINATIONAL TOP-UP TAX

CHAPTER 6

CALCULATION OF TOP-UP AMOUNTS

197 Eligible tangible asset amount

(1) The eligible tangible asset amount of a member for a period is the average of—

(a) the sum of the carrying values of each eligible tangible asset held by the member, as those values are recorded at the start of the period;

(b) the sum of the carrying values of each eligible tangible asset held by the member, as those values are recorded at the end of the period.

(2) Where a value is not recorded at a time referred to in subsection (1), the value is to be calculated as if it were recorded at that time.

(3) "Recorded" means recorded for the purposes of preparing the consolidated financial statements of the ultimate parent.

(4) For the purposes of this section "carrying value" means the carrying value of the asset including—

(a) accumulated depreciation, amortisation or depletion,

(b) amounts attributable to the capitalisation of eligible payroll costs and costs that would be eligible payroll costs were they not excluded costs under section 196(4), and

(c) amounts attributable to any purchase accounting adjustment relating to the asset, but not including any positive difference between the value of an asset recorded from time to time and the value of an asset when it was acquired by the member, where that difference is solely attributable to a revaluation.

(5) An asset is an eligible tangible asset if it is—
  (a) of a type referred to in subsection (6), and
  (b) not an excluded asset.

(6) The types of asset are—
  (a) property, plant or equipment located in the same territory as the member;
  (b) natural resources located in that territory;
  (c) a right to use a tangible asset located in that territory under a lease;
  (d) a license or similar right to use a tangible asset located in that territory, provided that—
    (i) the right is granted by a government of that territory, and
    (ii) it is expected in granting the right that the member will, in using that right, incur significant expenditure in enhancing the value of tangible assets in that territory (whether or not those assets are subject to the right).

(7) An asset is an excluded asset if it is of one of the following types—
  (a) property (including land or buildings) that is held for sale, lease or investment (whether such sale, lease or investment is to be carried out in the period or not);
  (b) an asset used in the course of core international shipping activity (see section 157);
  (c) an asset used in the course of ancillary international shipping activity (see section 158), subject to subsections (8) and (9).

(8) Where the member has an ancillary international shipping profit cap adjustment of more than nil for the period, only the eligible proportion of an asset used in the course of ancillary international shipping activity is to be treated as an excluded asset.

(9) The eligible proportion is the proportion given by dividing—
  (a) the member's ancillary international shipping profits for the period, by
  (b) the amount given by subtracting the member's ancillary international shipping costs from the member's ancillary international shipping revenue for the period.